

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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LONNIE LEE HAMILTON, as the Administrator	:	No. 18 Civ. 9734
Of THE ESTATE OF LONNIE LAMONT	:	
HAMILTON,	:	NOTICE OF REMOVAL
	:	
Plaintiff,	:	
	:	
- against -	:	
	:	
JOSEPH MEAD and ALFRED ZEINA,	:	
	:	
Defendants.	:	
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Defendants Joseph Mead and Alfred Zeina (“defendants”) hereby remove the case *Hamilton v. Mead*, (Index No. 28536/2018E) (N.Y. Sup. Ct., Bronx Co.), from the New York Supreme Court, County of Bronx, to the United States District Court for the Southern District of New York.

1. On or about July 23, 2018, Plaintiff commenced an action in Supreme Court of the State of New York, Bronx County entitled *Hamilton v. Mead*, (Index No. 28536/2018E) (the “State Action”).

2. Pursuant to 28 U.S.C. § 1446(a), a copy of the summons and complaint in the State Action served upon defendants is attached as Exhibit A. No other pleadings have been filed or served to date in the State Action.

3. The State Action is a civil action. The complaint asserts federal claims under 42 U.S.C. Section 1983 and the First and Eighth Amendments to the United States Constitution, and no claims under state law are pled. (Ex. A, ¶ 6, First and Second Causes of Action). Removal is therefore proper under 28 U.S.C. §§ 1331, 1441, and 1446.

4. This action is pending in a state court within the Southern District of New York and removal to this Court is therefore proper under 28 U.S.C. § 1446(a).

5. Removal is timely under 28 U.S.C. § 1446(b)(1). Defendant Mead first received notice of the lawsuit on October 9, 2018, and defendant Zeina received notice, at the earliest, on October 11, 2018. *See* Exhibit B.

6. Defendants will promptly serve written notice of the removal of this action upon Plaintiff and file notice of the removal of this action with the Clerk for the Supreme Court of the State of New York, Bronx County.

7. Defendants reserve all of their defenses, ability to otherwise move with respect to the complaint, and deny any liability. Defendants expressly reserve their defense that venue of this action in the Southern District of New York is improper under 28 U.S.C. § 1391(b) and § 1404 because no defendant resides or is alleged to reside in the Southern District of New York, and the events and omissions giving rise to the claims are alleged to have occurred in the Northern District of New York at Marcy Correctional Facility.

8. Defendants therefore respectfully notice the removal of Index No. 28536/2018E from the Supreme Court of the State of New York, Bronx County to the United States District Court for the Southern District of New York.

Dated: New York, New York
October 23, 2018

BARBARA D. UNDERWOOD
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